

09-27-04

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV375955923US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Filed: September 24, 2004

Signature:

(Marco Jimenez)

RECEIVED

SEP 29 2004

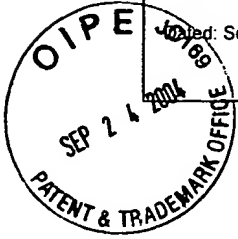
OFFICE OF PETITION

Docket No.: 393032023900

Client reference: PA0009US (H7450US)

(PATENT)

DAC
#11



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Taro TOKUHIRO et al.

Application No.: 09/824,483

Filed: March 30, 2001

For: METHOD FOR SELLING ITEMS USING A
NETWORK

Group Art Unit: 3625

Examiner: Mark Fadok
(Examination)

Ian Lobo (Licensing/Review)

RECEIVED

OCT 13 2004

LICENSING DIVISION

RESPONSE TO DENIAL OF PETITION FOR RETROACTIVE LICENSE

UNDER 37 CFR 5.25

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to a denial of a petition for a retroactive license under 37 CFR 5.25 mailed on July 26, 2004, requesting a response within 60 days of the mailing date. Enclosed herewith is copy of the denial.

Applicants submitted a petition for retroactive license concurrently with the filing of the above application on March 30, 2001. The petition received the serial number P-104,003. The petition was subsequently reviewed, and a retroactive foreign filing license bearing number 527,180

la-749413

was granted on July 9, 2001. The USPTO subsequently reviewed the petition and denied it on May 24, 2004 apparently without knowledge that a retroactive license had already been granted. In a response dated July 12, 2004, Applicants respectfully submitted that a retroactive foreign filing license had been granted, and the denial of the petition on May 24, 2004 should be withdrawn. The USPTO renewed its denial on July 26.

In the renewed denial, the Examiner requested a further showing of "why the material was filed abroad through error and without deceptive intent" as set forth in 37 C.F.R. § 5.25(a)(3)(iii). Applicants are submitting herewith a supplemental declaration of Shigehiko Mizuno to provide, along with Mr. Mizuno's original declaration, the necessary showing required under the cited section (without prejudice to their position that a license has already been granted). In view of the original and supplemental declarations and the submission on March 30, 2001, Applicants respectfully request the Examiner grant the petition and issue a retroactive license.

If, for any reason, the Examiner needs further assistance, Applicants request that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630.

In the unlikely event that the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 393032023900.

Dated: September 24, 2004

Respectfully submitted,

By 
Mehran Arjomand

Registration No.: 48,231
MORRISON & FOERSTER LLP
555 West Fifth Street, Suite 3500
Los Angeles, California 90013
(213) 892-5200